

**A RESOLUTION
BY PUBLIC SAFETY AND LEGAL
ADMINISTRATION COMMITTEE**

02-R-0236

**A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO
UNDERTAKE SETTLEMENT OF ALL CLAIMS ARISING
FROM THE CASE OF *PRIVATE MINI STORAGE REALTY,
L.P. V. CITY OF ATLANTA*, PENDING IN THE SUPERIOR
COURT OF FULTON COUNTY, CIVIL ACTION FILE NO.
2001CV34504 FOR THE AMOUNT OF \$183,392.50;
AUTHORIZING THE CHIEF FINANCIAL OFFICER TO
DISBURSE THE SETTLEMENT AMOUNT; AND FOR OTHER
PURPOSES.**

WHEREAS, Private Mini Storage, L.P. purchased 2.7 acres at 2175 Piedmont Road in the City of Atlanta; and

WHEREAS, there was a pre-existing easement for a sewer on said property which interfered with the plans of Private Mini Storage to construct a new building on said property; and

WHEREAS, the City of Atlanta conditioned the issuance of a building permit on the agreement by Private Mini Storage to relocate said sewer line on the property and enlarge it from a 42 inch pipe to a 60 inch pipe; and

WHEREAS, the City of Atlanta derived a benefit from the enlargement and construction of this new sewer line which replaced one that was approximately 70 years old; and

WHEREAS, because of this benefit City of Atlanta officials discussed a cost sharing agreement with Private Mini Storage; and

WHEREAS, since no agreement was ever reached to share in the cost of the enlargement and construction of this new sewer line Private Mini Storage filed the above reference lawsuit; and

WHEREAS, during the course of litigation, the Judge to whom the case was assigned referred it to the Civil Arbitration Program; and

WHEREAS, the September 21, 2001, arbitration hearing resulted in an award in favor of Private Mini Storage in the amount of \$350,000.00 on its claim of unjust enrichment; and

WHEREAS, Private Mini Storage has offered to settle its claims against the City of Atlanta for the sum of \$183,359.50, which is 50% of the total cost of the sewer replacement project; and

WHEREAS, the City Attorney has undertaken an extensive review of the law and facts applicable to this case and has determined that the City's potential financial exposure exceeds the proposed settlement amount; and

WHEREAS, based on the foregoing, the City Attorney recommends that the settlement offer of \$183,359.50 be accepted.

THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The City Attorney is hereby authorized to settle all claims arising from the case of Private Mini Storage Realty, L.P. v. City of Atlanta, Superior Court of Fulton County, Civil Action File No. 2001CV34504, for the sum of One Hundred and Eighty Three Thousand, Three Hundred and Fifty-Nine Dollars and Fifty Cents (\$183,359.50).

SECTION 2. The Chief Financial Officer is authorized to pay a total sum of \$183,359.50 to Private Mini Storage and their attorney Harry J. Winograd from Account No. 2J21529017T31001.